

furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information. Asserted considerations of privacy or confidentiality may not operate to bar the Department from access to or copying of records or information, or from evaluating or seeking to enforce compliance with this part.

(d) *Posters and information.* The recipient will post in prominent locations (bulletin boards, time clock areas, etc.) posters designed and furnished by DOL outlining and summarizing the nondiscrimination requirements of section 504. The recipient also will make readily available information on section 504 requirements with respect to compliance procedures, the rights of beneficiaries and employees through handbooks, pamphlets and other materials furnished by DOL.

[45 FR 66709, Oct. 7, 1980, as amended at 68 FR 51368, Aug. 26, 2003]

§ 32.45 Investigations.

(a) *Periodic compliance reviews.* The Assistant Secretary shall from time-to-time review the practices of recipients to determine whether they are complying with this part.

(b) *Adoption of grievance procedures.* A recipient shall adopt an internal review procedure incorporating appropriate due process standards which provides for the prompt and equitable resolution of complaints alleging any action prohibited by this part. The complainant or his or her representative shall file the complaint with the recipient for processing under those procedures. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the Assistant Secretary for good cause shown. The recipient shall maintain records on all complaints filed alleging violation of the Act and shall make such records available to the Assistant Secretary upon request. The complaint and all actions taken thereunder shall be kept confidential by the recipient. If the complaint has not been resolved under those procedures satisfactorily to the complainant within 60 days of the filing or referral, the complainant or his or her representative may file a com-

plaint with the Assistant Secretary within 30 days of the recipient level decision or 90 days from the date of filing the complaint, whichever is earlier. Upon such filing, the Assistant Secretary will proceed as provided in this section. Exhaustion of recipient level procedures shall be required except where:

(1) The recipient has not acted within the timeframe specified in this section; or

(2) The recipient's procedures are not in compliance with this section; or

(3) An emergency situation is determined to exist by the Assistant Secretary.

(c) *Complaints.* Where recipient level procedures have been exhausted, any person who believes he or she or any specific class of individuals has been subjected to discrimination prohibited by this part may (or through an authorized representative) file a written complaint with the Assistant Secretary.

(d) *Contents of complaints.* Complaints must be signed by the complainant or his or her authorized representative and must contain the following information:

(1) Name and address (including telephone or TTY number) of the complainant;

(2) Name and address of the recipient or sub-grantee who committed the alleged violation;

(3) A description of the act or acts considered to be a violation;

(4) A statement that the individual is handicapped or has a history of a handicap or other documentation of impairment or was regarded by the recipient as having an impairment; and

(5) Other pertinent information available which will assist in the investigation and resolution of the complaint.

(e) *Incomplete information.* Where a complaint contains incomplete information, the Assistant Secretary shall seek the needed information or any other information which indicates a possible failure to comply with this part from the complainant and shall be responsible for developing a complete record. If such information is not provided within 60 days, the complaint may be closed upon notice to the parties.

§ 32.46

(f) *Resolution of matters.* Where an investigation indicates that the recipient has not complied with the requirements of the Act or this part, efforts shall be made to secure compliance through conciliation and persuasion within a reasonable time. Before the recipient or subgrantee can be found to be in compliance, it must make a specific commitment, in writing, to take corrective action to meet the requirements of the Act and this part. The commitment must indicate the precise action to be taken and dates for completion. The time period allowed should be no longer than the minimum period necessary to effect such changes. Upon approval of such commitment by the Assistant Secretary, the recipient may be considered in compliance on condition that the commitments are kept. Where the investigation indicates a violation of the Act or regulations in this part (and the matter has not been resolved by informal means), the Assistant Secretary shall afford the recipient an opportunity for a hearing in accordance with § 32.47.

(g) *Intimidatory or retaliatory acts prohibited.* The sanctions and penalties contained in this regulation may be exercised by the Assistant Secretary against any recipient or sub-grantee who fails to take all necessary steps to ensure that no person intimidates, threatens, coerces or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the Act.

§ 32.46 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this regulation and if the non-compliance or threatened noncompliance cannot be corrected by informal means, the Department may suspend, terminate or refuse to grant or to continue Federal financial assistance or take any other means authorized by law. Such other means may include, but are not limited to:

29 CFR Subtitle A (7-1-05 Edition)

(1) A referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States or any assurance; and

(2) Any applicable proceeding under state or local law.

(b) *Noncompliance with the requirements of this part.* If a recipient fails or refuses to comply with a requirement imposed by or pursuant to this part, the Department may institute an administrative enforcement proceeding to compel compliance with the requirement, to seek appropriate relief, and or to terminate Federal financial assistance in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph if grants have not yet been approved or funds not yet committed to the recipient. However, the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until:

(1) The Assistant Secretary has advised the applicant or recipient of its failure to comply and compliance has not been secured by voluntary means; and

(2) There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program or activity, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any